

AMENDED IN ASSEMBLY APRIL 30, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 653

Introduced by Assembly Member Horton

February 22, 2001

An act to amend Section 48900 of the Education Code, and to amend Sections 241.2, 243.2, and 246.3 of, and to add Section 245.4 to, the Penal Code, and to add Section 729.6 to the Welfare and Institutions Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 653, as amended, Horton. Crime: minors: schools.

Existing law specifies those acts for which a pupil may be suspended from school or recommended for expulsion.

This bill would, in addition, include the act of aiding, abetting, or encouraging, the infliction, attempted infliction, or threatened infliction of physical injury to another person.

Existing law provides that an assault committed on school property against any person is punishable by a fine not exceeding \$2,000, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

This bill would instead provide that the fine could not exceed \$5,000. This bill would also require that where the assault was committed by a minor, the minor be ordered by the court to undergo anger management counseling, with the cost of counseling to be borne by the minor's parents, as specified.

Existing law provides that a battery committed on school property against any person is punishable by a fine not exceeding \$2,000, or by

imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

This bill would provide that the fine could not exceed \$5,000. This bill would also require that where the battery was committed by a minor, the minor be ordered by the court to undergo anger management counseling, with the cost of counseling to be borne by the minor's parents, as specified.

Existing law generally proscribes the offenses of assault with a deadly weapon, including an assault with a firearm.

This bill would, in addition, provide that an assault upon a minor on school grounds, or coming or going to school, as specified, would be punishable by a term of imprisonment in a county jail for not less than 6 months, nor more than one year, or imprisonment in the state prison for 3, 4, or 5 years, or by a fine not exceeding \$10,000, or by both imprisonment and fine. This bill would also provide where the above-described assault involved a firearm, it would be punishable by a term of imprisonment in a county jail for not less than 6 months, nor more than one year, or imprisonment in the state prison for 4, 6, or 8 years, or by a fine not exceeding \$10,000, or by both imprisonment and fine.

By creating new crimes, this bill would impose a state-mandated local program.

Existing law provides that, unless authorized, any person who willfully discharges a firearm in a grossly negligent manner that could result in injury or death to a person is guilty of an offense punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison.

This bill would, in addition, provide that any person who, unless authorized, willfully discharges a firearm from a motor vehicle in a grossly negligent manner that could result in injury or death to a person is guilty of an offense punishable by imprisonment in the state prison for 2, 3, or 5 years.

By changing the definition of an existing crime, this bill would impose a state-mandated local program.

Existing law provides that any person who is under the age of 18 years when he or she violates any law or ordinance defining crimes, as specified, is within the jurisdiction of the juvenile court.

This bill would, in addition, provide that where persons are subject to the jurisdiction of the juvenile court by reason of the commission of an assault or battery on school grounds, as specified, the court shall,



in addition to any other fine, sentence, or as a condition of probation, order the minor to attend anger management counseling at the expense of the minor's parents, as specified.

This bill would also require the Department of Justice to conduct a public awareness campaign regarding assaults on school grounds generally, and the new penalties for that offense imposed by the bill. Operation of the provisions requiring the campaign would be contingent upon an appropriation in the Budget Act.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law defines various crimes where the victim is a minor, and for enhancements for other crimes where the victim is a minor.~~

~~This bill would declare the intent of the Legislature to enact legislation increasing the penalties for certain crimes committed against or by minors in connection with school.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

~~SECTION 1. It is the intent of the Legislature to enact legislation to increase the penalties for crimes committed on school grounds, and for soliciting minors to commit crimes on school grounds; to increase the penalties for crimes committed against children in route to or from school, and for minors committing those crimes.~~

SECTION 1. Section 48900 of the Education Code is amended to read:

48900. A pupil may not be suspended from school or recommended for expulsion unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to one or more of subdivisions (a) to (o), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person; or *aided, abetted, or*

1 *encouraged, the infliction, attempted infliction, or threatened*
2 *infliction of physical injury to another person.*

3 (2) Willfully used force or violence upon the person of another,
4 except in self-defense.

5 (b) Possessed, sold, or otherwise furnished any firearm, knife,
6 explosive, or other dangerous object, unless, in the case of
7 possession of any object of this type, the pupil had obtained written
8 permission to possess the item from a certificated school
9 employee, which is concurred in by the principal or the designee
10 of the principal.

11 (c) Unlawfully possessed, used, sold, or otherwise furnished,
12 or been under the influence of, any controlled substance listed in
13 Chapter 2 (commencing with Section 11053) of Division 10 of the
14 Health and Safety Code, an alcoholic beverage, or an intoxicant of
15 any kind.

16 (d) Unlawfully offered, arranged, or negotiated to sell any
17 controlled substance listed in Chapter 2 (commencing with
18 Section 11053) of Division 10 of the Health and Safety Code, an
19 alcoholic beverage, or an intoxicant of any kind, and then either
20 sold, delivered, or otherwise furnished to any person another
21 liquid, substance, or material and represented the liquid,
22 substance, or material as a controlled substance, alcoholic
23 beverage, or intoxicant.

24 (e) Committed or attempted to commit robbery or extortion.

25 (f) Caused or attempted to cause damage to school property or
26 private property.

27 (g) Stolen or attempted to steal school property or private
28 property.

29 (h) Possessed or used tobacco, or any products containing
30 tobacco or nicotine products, including, but not limited to,
31 cigarettes, cigars, miniature cigars, clove cigarettes, smokeless
32 tobacco, snuff, chew packets, and betel. However, this section
33 does not prohibit use or possession by a pupil of his or her own
34 prescription products.

35 (i) Committed an obscene act or engaged in habitual profanity
36 or vulgarity.

37 (j) Unlawfully possessed or unlawfully offered, arranged, or
38 negotiated to sell any drug paraphernalia, as defined in Section
39 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) A pupil may not be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school sponsored activity.

(q) It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

SEC. 2. Section 241.2 of the Penal Code is amended to read:

241.2. (a) (1) When an assault is committed on school or park property against any person, the assault is punishable by a fine not exceeding ~~two~~ five thousand dollars (~~\$2,000~~) (\$5,000), or by

1 imprisonment in the county jail not exceeding one year, or by both
2 such fine and imprisonment.

3 (2) *When a violation of this section is committed by a minor on*
4 *school property, the court shall, in addition to any other fine,*
5 *sentence, or as a condition of probation, order the defendant to*
6 *attend anger management counseling at the expense of the*
7 *defendant's parents. The court shall take into consideration the*
8 *ability of the defendant's parents to pay, however, no defendant*
9 *shall be relieved of attending anger management counseling*
10 *because of the defendant's parents' inability to pay for the*
11 *counseling imposed by this section.*

12 (b) "School," as used in this section, means any elementary
13 school, junior high school, four-year high school, senior high
14 school, adult school or any branch thereof, opportunity school,
15 continuation high school, regional occupational center, evening
16 high school, technical school, or community college.

17 (c) "Park," as used in this section, means any publicly
18 maintained or operated park. It does not include any facility when
19 used for professional sports or commercial events.

20 SEC. 3. Section 243.2 of the Penal Code is amended to read:

21 243.2. (a) (1) Except as otherwise provided in Section
22 243.6, when a battery is committed on school property, park
23 property, or the grounds of a public or private hospital, against any
24 person, the battery is punishable by a fine not exceeding ~~two~~ five
25 thousand dollars (~~\$2,000~~) (\$5,000), or by imprisonment in the
26 county jail not exceeding one year, or by both the fine and
27 imprisonment.

28 (2) *When a violation of this section is committed by a minor on*
29 *school property, the court shall, in addition to any other fine,*
30 *sentence, or as a condition of probation, order the defendant to*
31 *attend anger management counseling at the expense of the*
32 *defendant's parents. The court shall take into consideration the*
33 *ability of the defendant's parents to pay, however, no defendant*
34 *shall be relieved of attending anger management counseling*
35 *because of the defendant's parents' inability to pay for the*
36 *counseling imposed by this section.*

37 (b) For the purposes of this section, the following terms have
38 the following meanings:

39 (1) "Hospital" means a facility for the diagnosis, care, and
40 treatment of human illness that is subject to, or specifically

1 exempted from, the licensure requirements of Chapter 2
2 (commencing with Section 1250) of Division 2 of the Health and
3 Safety Code.

4 (2) "Park" means any publicly maintained or operated park. It
5 does not include any facility when used for professional sports or
6 commercial events.

7 (3) "School" means any elementary school, junior high
8 school, four-year high school, senior high school, adult school or
9 any branch thereof, opportunity school, continuation high school,
10 regional occupational center, evening high school, technical
11 school, or community college.

12 (c) This section shall not apply to conduct arising during the
13 course of an otherwise lawful labor dispute.

14 *SEC. 4. Section 245.4 is added to the Penal Code, to read:*

15 *245.4. (a) When an assault is committed against a minor on*
16 *school property when school activities are being conducted, with*
17 *a weapon or instrument other than a firearm, the assault shall be*
18 *punished by imprisonment in the state prison for three, four, or five*
19 *years, or in a county jail for not less than six months or more than*
20 *one year, or by a fine not exceeding ten thousand dollars*
21 *(\$10,000), or by both the fine and imprisonment.*

22 *(b) When an assault is committed against a minor and the*
23 *person committing the assault knows or reasonably should know*
24 *that the victim is traveling to or from school, with a weapon or*
25 *instrument other than a firearm, the assault shall be punished by*
26 *imprisonment in the state prison for three, four, or five years, or in*
27 *a county jail for not less than six months or more than one year, or*
28 *by a fine not exceeding ten thousand dollars (\$10,000), or by both*
29 *the fine and imprisonment.*

30 *(c) When an assault is committed against a minor on school*
31 *property when school activities are being conducted, with a deadly*
32 *weapon or a firearm, the assault shall be punished by*
33 *imprisonment in the state prison for four, six, or eight years, or in*
34 *a county jail for not less than six months or more than one year, or*
35 *by a fine not exceeding ten thousand dollars (\$10,000), or by both*
36 *the fine and imprisonment.*

37 *(d) When an assault is committed against a minor and the*
38 *person committing the assault knows or reasonably should know*
39 *that the victim is traveling to or from school, with a deadly weapon*
40 *or a firearm, the assault shall be punished by imprisonment in the*

1 *state prison for four, six, or eight years, or in a county jail for not*
2 *less than six months or more than one year, or by a fine not*
3 *exceeding ten thousand dollars (\$10,000), or by both the fine and*
4 *imprisonment.*

5 *(e) "School" as used in this section, means any elementary*
6 *school, junior high school, four-year high school, senior high*
7 *school, opportunity school, continuation high school, evening*
8 *high school, or other school where the students include minors.*

9 *SEC. 5. Section 246.3 of the Penal Code is amended to read:*

10 *246.3. (a) Except as provided in subdivision (b), or as*
11 *otherwise authorized by law, any person who willfully discharges*
12 *a firearm in a grossly negligent manner which could result in injury*
13 *or death to a person is guilty of a public offense and shall be*
14 *punished by imprisonment in the county jail not exceeding one*
15 *year, or by imprisonment in the state prison.*

16 *(b) Except as otherwise authorized by law, any person who*
17 *willfully discharges a firearm from a motor vehicle in a grossly*
18 *negligent manner which could result in injury or death to a person*
19 *is guilty of a public offense and shall be punished by imprisonment*
20 *in the state prison for two, three, or five years.*

21 *SEC. 6. Section 729.6 is added to the Welfare and Institutions*
22 *Code, to read:*

23 *729.6. If a minor is found to be a person described in Section*
24 *602 by reason of the commission of an offense described in Section*
25 *241.2 or 243.2 of the Penal Code, the court shall, in addition to any*
26 *other fine, sentence, or as a condition of probation, order the minor*
27 *to attend anger management counseling at the expense of the*
28 *minor's parents. The court shall take into consideration the ability*
29 *of the minor's parents to pay, however, no minor shall be relieved*
30 *of attending anger management counseling because of the minor's*
31 *parents' inability to pay for the counseling imposed by this section.*

32 *SEC. 7. The Department of Justice shall, commencing March*
33 *1, 2002, conduct a 12-month long public awareness campaign*
34 *using broadcast, print, or other appropriate media regarding the*
35 *penalties for assaults and batteries on school property in general,*
36 *and the requirement of anger management counseling pursuant to*
37 *this act. The operation of this section is contingent upon an*
38 *appropriation by the Legislature for its purposes in the Budget Act*
39 *of 2001.*

1 *SEC. 8. No reimbursement is required by this act pursuant to*
2 *Section 6 of Article XIII B of the California Constitution because*
3 *the only costs that may be incurred by a local agency or school*
4 *district will be incurred because this act creates a new crime or*
5 *infraction, eliminates a crime or infraction, or changes the penalty*
6 *for a crime or infraction, within the meaning of Section 17556 of*
7 *the Government Code, or changes the definition of a crime within*
8 *the meaning of Section 6 of Article XIII B of the California*
9 *Constitution.*

